

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID ABRAMS,

Docket No.: 17-cv-6555

Plaintiff,

ANSWER

-against-

PAYAM INC., d/b/a COLBEH RESTAURANT,

Defendant.

The Defendant, PAYAM INC., d/b/a COLBEH RESTAURANT, by their counsel, GORDON & GORDON, P.C., as their Answer to the Plaintiff's Complaint, state as follows:

1. The Defendant denies knowledge and information sufficient to form a belief as to the allegations contained in paragraphs 1, 9, 11-19, 21, 27-28, 33-34, 37, 43-44, 51-53, 55-56, 62, and 67 of the Plaintiff's Complaint.
2. The Defendant denies the allegations contained in paragraphs 2-5, 22-26, 29-32, 35-36, 45-46, 48-49, 54, 57-59, 63-65 and 68-69 of the Plaintiff's Complaint.
3. The Defendant admits the allegations contained in paragraphs 6-8, 10, and 20.
4. The Defendant admits the allegations contained in paragraphs 38-39 only to the extent that Defendant sent a letter by certified mail, return receipt requested to the Plaintiff dated March 8, 2017.
5. Paragraphs 41-42, 47, 50, 60-61 and 66 do not contain any allegations but to the extent that they do, Defendant denies any and all allegations contained in those paragraphs.

AFFIRMATIVE DEFENSES

GOOD FAITH ON THE PART OF DEFENDANTS

1. Plaintiff's claims for liquidated damages are barred because the Defendants acted in good faith, non-willfully, and with reasonable grounds for believing that its conduct was lawful.

FAILURE TO STATE A CLAIM

2. The Plaintiff fails to state a claim on which relief can be granted.

ESTOPPEL

3. Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel, unclean hands and/or laches.

NOT "HOURS WORKED"

4. The hours Plaintiff claimed to have worked are not "hours worked" within the meaning of applicable state and federal law. Plaintiffs' claims are barred to the extent that they seek recovery for activities not compensable.

'OFF SET'

5. Defendants are entitled to a set-off for all monies paid to Plaintiffs for any hours not worked.

DE MINIMUS DAMAGES

6. Plaintiff has sustained no damages or *de minimis* damages, if any, which are not actionable under state or federal law.

EQUITABLE RELIEF NOT APPROPRIATE

7. Plaintiff is not entitled to equitable relief insofar as they have an adequate remedy at law.

UNCLEAN HANDS

8. The Plaintiff's claims are barred by the doctrine of unclean hands.

DEMAND FOR TRIAL BY JURY

9. The Defendant, PAYAM INC., d/b/a COLBEH RESTAURANT, demands a trial by jury.

WHEREFORE, Defendant respectfully requests that this Court dismiss Plaintiff's Complaint in its entirety and award defendants their costs, disbursements and reasonable attorneys' fees and

such other and further relief as the Court deems just and proper.

Dated: December 12, 2017
Forest Hills, New York

Respectfully Submitted,
GORDON & GORDON, P.C.



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